IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

LRs. of Madho Singh Charan v. State of Raj. & Ors.

S.B.CIVIL WRIT PETITION NO.1716/1999
under Article 226 of the Constitution of India.

Date of Order : 27th July, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. M.Mridul Sr.Advocate assisted by Shri Ashok Kumar Choudhary, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

BY THE COURT :

The petitioner entered in the services of Government of Rajasthan being appointed as Fieldman in Agriculture Department on 6.7.1961. The petitioner was accorded promotion to the post of Assistant Agriculture Officer on adhoc basis in the pay scale of Rs.1400-2360 by an order dated 11.12.1991. By an order dated 6.4.1999 the petitioner was ordered to be placed under compulsory retirement under recommendation of a review committee which met on 27.2.1999 to consider the cases pertaining to compulsory retirement. In

pursuant to order dated 6.4.1999 the Additional Director, Agriculture, Jalore passed an office order dated 17.4.1999 placing the petitioner under compulsory retirement. The petitioner was paid three months' advance pay in lieu of notice period as required under Rule 244 of the Rajasthan Service Rules, 1951 (hereinafter referred to as “the Rules of 1951”). Being aggrieved by the same present writ petition is preferred by the petitioner.

The only contention of the counsel for the petitioner is that the order of compulsory retirement dated 6.4.1999 and its consequential order dated 17.4.1999 deserves to be quashed as the sum paid to the petitioner in lieu of three months notice was not in accordance with the Rules as under the Rules three months' pay is required to be given in lieu of notice period. The petitioner became entitled for grant of selection grades on completion of 18 and 27 years of service on the post of Fieldman but the same was wrongly denied. In event the respondents would have given the selection grades for which the petitioner was entitled the amount paid to him in lieu of notice period would have quite much more than the amount paid to him.

A reply to the writ petition has been filed on behalf of the respondents giving details of public purpose on basis of which powers under sub-rule(2) of

Rule 244 of the Rules of 1951 was exercised by the appointing authority. The respondents also stated in the reply that payment of compensation in lieu of notice period was made in favour of the petitioner on basis of pay he was getting at the time of compulsory retirement.

I have heard counsel for the parties.

Rule 244(2) of the Rules of 1951 provides that Government Servant shall be entitled to get three months' pay in lieu of notice period i.e. of three months' in event of his compulsory retirement forthwith. The respondents paid compensation to the petitioner as equivalent to three months' pay petitioner was getting at the time of compulsory retirement. At that time the selection grades were not allowed to him, therefore, there was no reason available with the respondents to determine compensation by making fixation of his pay after grant of selection grades.

In my considered opinion the respondents have not committed any error while making payment of compensation to the petitioner by taking into consideration the pay he was getting on the day the order of compulsory retirement was passed.

In view of it the writ petition is devoid of merit and, therefore, the same is dismissed with no order as to costs.

(GOVIND MATHUR),J.

kkm/ps.